

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS SPINARD,

Plaintiff,

vs

1:05-CV-729

BRIGGS & STRATTON CORPORATION; and
HOME DEPOT USA, INC.,

Defendants.

APPEARANCES:

OF COUNSEL:

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DAVID N. HURD
United States District Judge

ORDER

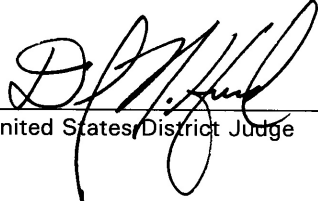
Defendant Briggs & Stratton Corporation, ("Briggs") has moved for summary judgment pursuant to Fed. R. Civ. P. 56. (Docket No. 44). The defendant Home Depot U.S.A., Inc. ("Home Depot") has cross-moved for the same relief (Docket No. 45). Plaintiff opposes (Docket No. 47). The motion was taken on submit.

Briggs' previous motion was summarily denied from the bench (Docket Nos. 42 and 43). Since that time, as set forth by both plaintiff and Home Depot, Briggs has failed to respond to numerous discovery demands. Briggs has not denied those allegations. This motion is premature until those discovery issues are resolved.

Therefore, it is

ORDERED that the motion and cross-motion for summary judgment are DENIED.

IT IS SO ORDERED.


United States District Judge

Dated: February 23, 2007
Utica, New York.